

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19133

Application 27584 of Charles D. McPherson and William H. A. Smith

776 South State Street, Ukiah, California 95482

filed on November 12, 1982, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Russian River

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 2,850 feet and East 1,700 feet from SW corner of Projected Section 25	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	25	14N	12W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Frost Protection	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	26	14N	12W	MD	20
	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	26	14N	12W	MD	4
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	25	14N	12W	MD	15
	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	25	14N	12W	MD	1
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	25	14N	12W	MD	15
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	25	14N	12W	MD	15
					Total	70

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3 cubic feet per second to be diverted from March 1 to May 15 of each year. The maximum amount diverted under this permit shall not exceed 105 acre-feet per year.

(0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall be completed by December 1, 1987.

(0000008)

8. Complete application of the water to the authorized use shall be made by December 1, 1994.

(0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

(0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution.

(0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000014)

14. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue. (0000025)

15. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of permittee. (0000063)

16. For the protection and preservation of fishlife and the maintenance of water-related recreational uses, permittee shall divert only when the flow in the Russian River exceeds 150 cubic feet per second and only at a rate not exceeding said excess, ceasing all diversion when the flow in the river is 150 cubic feet per second or less. River flows shall be measured at the nearest U.S.G.S. Gaging Station on the river. (0140068)

17. The archeological sites identified in "Cultural Resource Survey Report, Applications 27581-27584" as Smith/McPherson #1 and #2 shall not be impacted by any of the development proposed under those applications. No surface or subsurface disturbances of these sites shall occur during either the construction of the proposed reservoirs and pipelines or the installation of the proposed vineyard and water distribution system. (0380500)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MARCH 7 1984

STATE WATER RESOURCES CONTROL BOARD

*Raymond Wash*

Chief, Division of Water Rights